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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,110	03/29/2001	Paul A. Underbink	B-64418D (044368/0455)	3271
20594	7590	07/20/2004	EXAMINER	
CHRISTOPHER J. ROURK AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P. P O BOX 688 DALLAS, TX 75313-0688			CRAVER, CHARLES R	
			ART UNIT	PAPER NUMBER
			2682	10

DATE MAILED: 07/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,110

Applicant(s)

UNDERBINK ET AL.

Examiner

Charles R Craver

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-27, 29, 30 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-44 is/are allowed.
- 6) ☒ Claim(s) 23 and 24 is/are rejected.
- 7) ☒ Claim(s) 25-27, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>herewith</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raleigh et al, US Pat 5,809,422, newly cited, in view of Werling, of record.

Claim 23: Raleigh discloses a method for cellular communication comprising

Determining the location of a user, allocating call resources at each cell encircling the user, and setting up a channel (col 1 lines 44-65). Raleigh fails to disclose that the user device is directional.

Werling discloses the utility of using directional antennas in a cellular mobile station (col 2 line 54-col 3 line 33). As such, it would have been obvious to one of ordinary skill in the art at the time of the invention to add such a feature to Raleigh, as Werling discloses that such would avoid unwanted and possibly dangerous interference.

Claim 24: the combined invention of Raleigh in view of Werling is read as being performed in parallel.

Allowable Subject Matter

Claims 25-27, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 39-44 are allowed.

The following is an examiner's statement of reasons for allowance:

Claims 25 and 39 teach towards a method for allocating cellular resources to a user of a directional wireless device, wherein a change of orientation of the user device is detected and in response, call resources are allocated at every cell surrounding the user and a call channel is setup with the user at an optimal cell. Claims 26, 27, 29, 30 and 40-44 are deemed as containing allowable subject matter based on a dependence on claims 25 and 39.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claim 25 has been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Csapo and Rutledge discuss means for utilizing surrounding cells in call setup.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 for both formal and informal/draft communications, labeled
as such.

Hand delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington VA, sixth floor (receptionist).

Any inquiry concerning this or earlier communications from the examiner should
be directed to examiner Charles Craver at (703) 305-3965.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor,
Vivian Chin, can be reached at (703) 308-6739.

Any inquiry of a general nature or relating to the status of this application should
be directed to the Group receptionist at (703) 305-4700.

CC

C.Craver

July 14, 2004

WLC 7/14/04
CHARLES CRAVER
PATENT EXAMINER